

Remarks / Discussion of Issues

In the non-final Office Action dated September 14, 2009, it is noted that claims 1 and 3-18 are pending, and claims 1 and 3-18 stand rejected. Claims 1, 6, and 11 are independent claims. Claims 3-5 and 16-18 depend ultimately from claim 1; claims 7-10 depend from claim 6; and claims 12-15 depend from claim 11. Claim 2 was previously canceled.

By this response, claims 1, 3, 5-8, 10, 11, and 18 have been amended to clarify certain aspects of the subject matter and for non-statutory purposes. Support for the amendments to the claims is located at least at page 8 line 22 through page 9 line 7 of the specification as originally filed. Claim 19, which is based on claim 2 as originally filed (and was subsequently canceled), is newly added. No new subject matter has been added.

Cited Art

Cited art in this response includes US Patent 7,310,670 to Walbeck et al. (hereinafter "Walbeck"), US Patent 7,075,890 to Ozer et al. (hereinafter "Ozer"), US Patent 7,016,676 to Walke et al. (hereinafter "Walke"), US Patent 4,797,879 to Habbab et al. (hereinafter "Habbab"), US Patent 7,415,046 to Beckman et al. (hereinafter "Beckman"), US Patent 7,289,529 to Sherman (hereinafter "Sherman"), and US Patent Publication 2005/0111402 to Sawada et al. (hereinafter "Sawada").

Rejections under 35 U.S.C. §102

Claims 1, 3, and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Walbeck. This rejection is respectfully traversed.

In order for a reference to anticipate a claim, MPEP 2131 requires the reference to teach every element of the claim.

Applicants' claim 1 recites in part:

transmitting the message including the preamble and header (PR) and the control section on the at least two channels that are an object of channel grouping to reserve the at least two channels, such that a single channel device detects the preamble

and header and performs a process according to control information included in the control section.

Walbeck discloses a multi-channel power line exchange protocol wherein a scalable networking protocol that allows multiple nodes to communicate via a multi-channel network medium allows any node on the network to assign itself as the active network server (Abstract). Walbeck at column 43 lines 29-63 discloses sending a group of four data fragments from a source node to a destination node across four available channels. However, Walbeck does not describe reserving channels for channel grouping. Walbeck simply mentions that the channels are available. In other words, Walbeck fails to teach or even suggest transmitting a message including a preamble and header (PR) and a control section on all channels that are an object of channel grouping to reserve those channels.

Furthermore, Walbeck's disclosure of transmitting a DACK packet over all channels is completely different from Applicants' claim 1 because the claimed invention requires transmitting a control section on all channels that are an object of channel grouping to reserve those channels. In other words, Walbeck's DACK packet is sent on all channels in response to packet requests, whereas the Applicants' claimed invention transmits a control section on all channels that are an object of channel grouping to reserve those channels. Nowhere does Walbeck disclose transmitting a message including a preamble and header (PR) and a control section on all channels that are an object of channel grouping to reserve those channels, as required in claim 1. As such, Walbeck does not teach every element of claim 1, and therefore does not anticipate claim 1 under 35 U.S.C. §102(e) and MPEP 2131.

In addition, Walbeck does not disclose or suggest the additional claimed features of: such that a single channel device detects the preamble and header and performs a process according to control information included in the control section.

Claims 3 and 17 depend from claim 1 and inherit all of the respective features of claim 1. Thus, claims 3 and 17 are patentable for at least the same reasons discussed above with respect to independent claim 1, from which they depend, with each dependent claim containing further distinguishing patentable features.

It is respectfully submitted that the rejection of claims 1, 3, and 17 has been overcome. Hence, withdrawal of the rejection under 35 U.S.C. §102(e) is respectfully requested.

Rejections under 35 U.S.C. §103

Claims 4 and 18 stand rejected over Walbeck in view of Ozer. Claim 5 by Walbeck in view of Walke. Claims 6, 7, 9, and 10 by Walbeck in view of Habbab. Claim 8 by Walbeck, Habbab and Walke. Claim 16 by Walbeck in view of Beckman. Claims 11, 12, and 14 by Walbeck in view of Sherman. Claim 13 by Walbeck, Sherman and Habbab. Claim 15 by Walbeck and Sherman in view of Sawada.

Applicants respectfully traverse these rejections.

In re Wada and Murphy, Appeal 2007-3733, the BPAI stated that:

When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art." *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, "*there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*" *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)).

Independent claims 6, and 11 are method claims for accessing a medium by a multi-channel device.

Claim 6 includes the features of:

blocking the channel to other devices by the multi-channel device by transmitting the message including the preamble and header (PR) and the control section, such that a single channel device detects the preamble and header and performs a process according to control information included in the control section,

further scanning the other channels to be called upon and blocking or reserving the other channels on finding that the channel

concerned is idle or that a backoff is underway by transmitting the message.

The Office admits that Walbeck fails to describe the feature of "blocking of this channel" and points to Habbab. However, Habbab is simply sensing the channel according to the CSMA protocol. Habbab does not suggest "blocking" the channel by transmitting a reserving message including a preamble and header (PR) and a control section.

Furthermore, applicants essentially repeat the above discussion of claim 1 regarding Walbeck and apply the argument to the specific features recited in claim 6. Therefore, the combination of cited references fails to show or even suggest each and every feature of independent claim 6 and the rejection should be withdrawn.

Claim 11 includes the features of:

repeating the preamble and header (PR) of the message on all channels that are an object of channel grouping to reserve those channels, and

reserving or blocking, by a third device independent of a transmitter and receiver of the message, the channels in the channel group for the multi-channel device that intends to transmit, such that a single channel device detects the preamble and header and performs a waiting process.

The Office admits that Walbeck fails to describe the feature of "reserving or blocking" and points to Sherman. However, Sherman is simply describing a point coordination function. The point coordination function serves to coordinate access to the medium. However, nowhere does Sherman describe reserving or blocking, by a third device independent of the transmitter and receiver of the message, the channels in a channel group for the multi-channel device that intends to transmit. Sherman is simply allowing access to a device for one channel.

Furthermore, applicants essentially repeat the above discussion of claim 1 regarding Walbeck and apply the argument to the specific features recited in claim 11. Therefore, the combination of cited references fails to show or even suggest each and every feature of independent claim 11 and the rejection should be withdrawn.

With regard to the features of dependent claim 5 the Office Action, at the bottom of page 6 through the top of page 7, relies on Walke as allegedly disclosing or suggesting these features, it is apparent that the Office concurs that Walbeck does not disclose these features.

Walke relates to an interface-control protocol for the two-way alternate control of radio systems of different standards in the same frequency band. (Title, Abstract).

Walke at column 2, lines 40-42 recites:

The first radio interface standard may be, for example, the HiperLAN/2 standard and the second radio interface standard may be the IEEE802.11a standard.

Walke at column 1, lines 43-62 describes the IEEE802.11a standard, regarding a CSMA/CA method which transmits an RTS (Ready To Send) packet and waits for a CTS (Clear To Send) packet from the addressed station. Figure 2 of Walke gives a diagrammatic representation of the access to a radio channel in systems in accordance with the IEEE802.11a standard.

While Walke may disclose a method for a wireless network and a control station to make efficient use of radio transmission channels, apparently by using multiple radio interface standards such as the IEEE802.11a standard, the cited portions of Walke do not disclose or even suggest the patentable subject matter as recited in claim 5.

Furthermore, Walke appears to teach the opposite of the Applicants' claimed invention because, as described at column 2, line 43-column 3 line 6, two standards are reserved for the frequency band. Walke's disclosure that two radio interface standards are used in the frequency band, whereby the control section of the first interface standard is transmitted on one channel while the different control section of the second interface standard is transmitted on a second channel, would not enable one of ordinary skill in the art to invent a solution comprising channel grouping, as required by the Applicants' claimed invention.

As such, neither Walbeck nor Walke, singly or in combination, discloses or even suggests all limitations in claim 5. Accordingly, the Applicants respectfully maintain

that the rejection of claim 5 under 35 U.S.C. 103(a) over the combination of Walbeck and Walke is unfounded and should be withdrawn.

With respect to dependent claims 3-5, 7-10, and 12-18, the Office Action cites additional references as noted above. Each of dependent claims 3-5, 7-10, 12-18 and new dependent claim 19 depends from an allowable independent base claim. The cited references do not cure the deficiencies as noted with respect to the base independent claim. Thus, each dependent claim is patentable for at least the same reasons discussed above with respect to its independent base claim, from which it depends, with each dependent claim containing further distinguishing patentable features.

It is respectfully submitted that the rejections of claims 1 and 3-18 have been overcome. Hence, withdrawal of the rejections and early allowance of all pending claims and new claim 19 are respectfully requested.

Conclusion

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance.

If there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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